

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LUCIANO TONELLI,

Plaintiff,

v.

BRIAN MCGARVIE; and JAMES  
MASON,

Defendants.

CASE NO. C08-5190BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION


This matter comes before the Court on the Report and Recommendation of the Honorable J. Kelley Arnold, United States Magistrate Judge (Dkt. 8). On May 1, 2008, Judge Arnold filed a Report and Recommendation properly concluding that Plaintiff failed to allege the deprivation of any liberty interest and failed to allege Eighth Amendment violations regarding his conditions of confinement. Dkt. 8.

On May 23, 2008, Plaintiff moved for an extension of time in which to file objections. Dkt. 9. Plaintiff's Motion to Grant Time Extension of Deadline (Dkt. 9) was granted, and the Report and Recommendation was renoted for consideration on June 30, 2008. To date, no objections have been filed.

Therefore, the Court, having considered the Report and Recommendation (Dkt. 8), Plaintiff's failure to file objections thereto, and the remaining record, does hereby find and **ORDER:**

- (1) The Court **ADOPTS** the Report and Recommendation (Dkt. 8);
- (2) This action is **DISMISSED WITH PREJUDICE** for failure to state a claim. This dismissal counts as a strike pursuant to the 28 U.S.C. 1915 (g).

DATED this 9<sup>th</sup> day of July, 2008.

  
BENJAMIN H. SETTLE  
United States District Judge